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ABSTRACT

Published by the Department of Health and Human Services, as required by Nebraska law, this guide details regulations for the physical well-being, safety, and protection of children and defines the minimum levels of acceptable services to be provided in Nebraska preschools. The first section of the guide lists specific preschool regulations, including: (1) definitions; (2) licensing process; (3) administration; (4) staff qualifications; (5) in-service requirement; (6) nutrition; (7) discipline; (8) materials and equipment; (9) child health; (10) safety and emergency; (11) facility; (12) transportation; (13) sanitation; (14) grounds; (15) department of health regulations; and (16) alternative compliance with regulations. The second section lists the Nebraska state fire marshal general requirements for preschool occupancies. The third section outlines broader policies, including: (1) public access to licensing files; (2) information released to other governmental entities; (3) information not released; (4) child care provider access to licensing files; (5) restricted information; (6) death of a child; and (7) emergency closing orders. The guide's final section delineates the legal basis of child care licensing as presented in Nebraska statutes. (SD)

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PRESCHOOL REGULATIONS



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INTRODUCTION

Nebraska law requires anyone providing services to four or more children at any one time from families other than the provider's own, for compensation, and on a regular basis, to be licensed by the Department of Health and Human Services. Included in this requirement are preschools, or as they are sometimes referred, nursery schools.

A preschool is a program which provides primarily educational services, where children do not nap, and where children are not served a meal. Services are provided to four or more children from different families:

1. Age 12 years or younger;
2. On the average of less than 12 hours per day but more than 2 hours per week;
3. For compensation, either directly or indirectly;
4. On a regular basis; and
5. In lieu of parental supervision (Nebraska Revised Statutes, Section 71-1910).

Nebraska law also requires the Department of Health and Human Services to write and publish regulations for the "physical well-being, safety and protection of children." "Such standards shall insure that the provider or program is providing proper care for, and treatment of, the children served and that such care and treatment is consistent with the children's physical well-being, safety, and protection."

In doing so, the Department has sought the advice and assistance of parents, preschool providers, and other early childhood professionals. Citizen groups met in 1984 to assist the Department of Health and Human Services in developing regulations which would be representative of the varied interests of parents and preschool providers across the State.

Using the recommendations of these groups as a framework, the Department of Health and Human Services has written regulations which define the minimum levels of acceptable services to be provided in preschools. These regulations have the full force and effect of law as codified under Title 474 of the Nebraska Administrative Code, Chapter 6, Section 006.

The fact that a preschool is licensed in no way lessens the responsibility of parents for insuring that their children participate in programs which promote healthy development. Nebraska citizens who have a concern or questions about preschool programs should contact:

Resource Development and Support
Nebraska Department of Health and Human Services
P.O. Box 95044
Lincoln, NE 68509-5044

PRESCHOOL REGULATIONS

EFFECTIVE DATE: June 2, 1985

Issued by the Nebraska Department of Health and Human Services under the authority of Sections 1908 through 1918, Revised Statutes of Nebraska, 1943.

This publication is a handbook for licensees which restates the regulations that are codified under Title 474 of the Nebraska Administrative Code, Chapter 6, Section 006. A different numbering system is used in this handbook for the convenience of the licensee.

PRESCHOOL REGULATIONS

DEFINITIONS

Agency Representative: Any person employed by or under contract with the Nebraska Department of Health and Human Services, Nebraska Department of Health and Human Services Regulation and Licensure, State Fire Marshal, or their designated agents.

Ages of Children:

1. Infant - A child age 6 weeks to 18 months of age.
2. Toddler - A child age 18 months to 36 months.
3. Preschooler - A child age 36 months to school-age.
4. School-age - A child who attends grades kindergarten and above.

Preschool: An early childhood program which provides primarily educational services, where children do not nap and where children are not served a meal. Services are provided -

1. To four or more children age 12 or younger at any one time from families other than that of the provider;
2. For on the average of less than 12 hours per day;
3. For compensation, either indirect or direct;
4. On a regular basis; and
5. By a person other than their parents/guardians (Section 71-1910, Nebraska Revised Statutes).

Child Care Center: A facility licensed to provide child care for 13 or more children.

Child Care Resource Specialist: A Department staff person responsible for measuring compliance with licensing regulations, and who provides consultation and technical assistance to child care providers.

Department: The Nebraska Department of Health and Human Services.

Director: The person who is responsible for the daily operation of the preschool, including compliance with all regulations.

Family: Individuals who are not household members and have one or more children enrolled in the preschool program. Child care provided to four or more children from more than one family requires a license.

Licensee: The owner of the preschool program, if different than the director, and the person(s) to whom the license is issued.

Parent: The natural parent, adoptive parent, or stepparent(s), guardian or other legally responsible person.

Recreation Camp: Programs or services that are recreational, social, or instructional and that are provided on a time-limited or irregular schedule and are not for the purpose of providing child care services.

Regulation: A requirement or policy having the force and effect of law.

Rule: A regulation having the force and effect of law.

Support Staff: Those persons, whether paid or volunteer, employed by the center in such positions as aides, food service, clerical, custodial and transportation.

Teacher/Assistant Teacher: The person who is responsible for the direct care of children, whether paid or volunteer.

Types of Licenses: All preschool licenses are effective only for the address shown on the license, and as follows:

1. **Provisional License:** The license issued to all newly licensed preschools for the first year of operation. This license may be extended for one six-month period.
2. **Operating License:** The standard two-year license issued to preschools who have been licensed for more than one year and are in full compliance with all regulations.
3. **Probationary License Status:** The license status determined when a preschool is found to be out of compliance with regulation(s) and has a corrective action plan approved by the Department that specifies how compliance will be achieved in no more than six months. This status cannot be renewed or extended.

LICENSING PROCESS

1. As mandated by state law, licensing staff shall collect a twenty-five dollar nonrefundable license fee for the issuance or renewal of each license for providers with a licensing capacity of less than thirty children and a fifty dollar nonrefundable fee for the issuance or renewal of each license for providers with a licensing capacity of thirty or more children.
2. The Department shall make a referral, on behalf of the applicant/licensee, to the State Fire Marshal.
3. The license capacity shall be determined by the preschool's staffing, equipment, furnishings and available space and by the number authorized by the State Fire Marshal, whichever is fewer. License capacity shall be stated on every preschool license issued by the Department.
4. The Department of Health and Human Services shall not issue a license to operate a preschool until the following materials are on file:
 - a. An application which is current, accurate, and complete, and includes a list of all staff including volunteers and substitutes.
 - b. Inspection reports showing compliance with all fire safety rules and all Department of Health and Human Services rules.
5. The director shall report the following changes to the Department of Health and Human Services before they occur: change in location, facility, or facility usage; change in director; change in the minimum age of children which the preschool accepts into the program; change in the hours of operation of the preschool; and change in licensee/owner.

ADMINISTRATION

6. The current license must be prominently posted so that it is clearly visible to parents and others.
7. Preschool staff shall permit visits, unannounced or announced, by parents of enrolled children or agency representatives during hours of operation.

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8. The preschool's program goals and a sample daily schedule must be available in writing to parents of all enrolled children.
 9. The preschool shall have on file a completed Children's Record (form DSS-0363) or a form which contains at least the same information, for each child within 30 days of the child's first day of attendance. This information must be available to licensing staff upon request.
 10. The preschool shall maintain copies of children's immunization records. These records will be available for review upon request.
 11. The preschool shall comply with all Nebraska Health and Human Services requirements regarding the immunization status of all enrolled children.
 12. Staff records shall include, but are not limited to:
 - a. The name, address, and telephone number of each staff member.
 - b. Health Information Report (DSS-0915) or a report containing the same information.
 - c. A statement from the director certifying that s/he has verified staff qualifications of all staff prior to hiring.
 - d. Dates of employment and separation.
 - e. A statement from each staff person, including the director, providing information concerning any felony and/or misdemeanor arrests and convictions and of any pending criminal charges. The statement must be signed and dated.
 13. Any staff person who is a member of a church or religious organization which prohibits certain medical tests or treatment is exempt from submitting form DSS-0915 information. This exemption is conditional upon a statement being included in the staff file prior to hiring, indicating that such tests or treatments conflict with religious beliefs.
 14. The director shall report to the Department of Health and Human Services within 24 hours the death of any child on the premises or any accident to children while on the preschool premises which requires hospitalization or extensive medical attention.
 15. Any staff person who has reason to believe child abuse or neglect may be occurring in the preschool, in the child's home, or elsewhere, shall under penalty of law, immediately file a report with the Child Abuse-Neglect Hotline - 800-652-1999. (Sections 28-711 and 28-717, Nebraska Revised Statutes.)

STAFF QUALIFICATIONS

16. The director shall make available to the Department of Health and Human Services, written verification of meeting staff qualifications (i.e., copy of transcript, letter of verification, grade reports, reference letters, certificates).
 17. Within 30 days of hiring and annually thereafter, each staff member shall provide a Health Information Report (DSS-0915), current within six months of hiring or a report containing the same information.
 18. The Department of Health and Human Services shall clear the names, as indicated on the application, of all staff, both paid and volunteer, with the Nebraska Central Registry of Child Abuse and Neglect, and the Nebraska Adult Protective Services Central Registry, before issuing a license and at least on an annual basis. If a preschool is located within a private residence, the director shall submit the names of all household members 13 years and older for clearance with the Nebraska Central Registry of Child Abuse and Neglect and the names of all household members 18 years and older for clearance with the Nebraska Adult Protective Services Central Registry each time an application is filed and at least on an annual basis.
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19. The director shall not knowingly allow any person, neither paid nor volunteer staff, who has been convicted of, admitted to, or there is substantial evidence of crimes involving intentional bodily harm, crimes against children, crimes involving the illegal use of controlled substances, or crimes involving moral turpitude to be on the preschool premises. Preschool staff, whether paid or volunteer, shall not engage in or have a history of behaviors injurious to or which may endanger the health or morals of the children in care.
 20. Preschool staff or any person designated by the licensee as having responsibility for children shall have the responsibility to provide adequate and appropriate supervision at all times children are in attendance. Evidence of negligent or willful lack of supervision is basis for suspension or revocation of the preschool's license.
 21. Candidates being considered for employment as a director, teacher, assistant teacher, and all support staff must be checked against the Nebraska Central Registry of Child Abuse and Neglect and the Nebraska Adult Protective Services Registry before being hired.
 22. Candidates being considered for employment as a director, teacher, assistant teacher, and/or support staff shall submit a signed "Felony/Misdemeanor Statement" (DSS-0600) to the licensee or director. The licensee or director shall request additional information from the appropriate law enforcement agency as needed to comply with Department regulations. The Licensee is responsible for reporting any arrests, misdemeanor tickets other than traffic violations, pending criminal charges, and/or any felony/misdemeanor convictions on themselves, the director and staff, which includes teachers/assistant teachers and all support staff.
 23. The director shall ensure that any person having contact with the children has read and is familiar with the Preschool Regulations.
 24. The director shall list all staff, including volunteers and substitutes, on each application filed with the Department.
 25. Substitute staff and volunteers are exempt from staff qualifications (except for No. 19) and in-service requirements.
 26. The Director shall have reached the legal age of majority and have a High School Diploma or General Education Diploma. In addition, the Director shall meet one of the following requirements:
 - a. Have a written Department-approved plan to acquire at least six semester hours, or the equivalent thereof, or 36 clock hours of Department approved in-service in the area of child development or early childhood education in a period not to exceed 12 months;
 - b. Have a minimum of six credit hours, or the equivalent thereof, in early childhood education or child development;
 - c. Have a minimum of two years of verifiable experience in preschool education, as indicated by a positive reference from a parent of an enrolled child, a former employer/supervisor, primary education teacher, early childhood teacher, or child development teacher;
 - d. Have a Child Development Associate Credential; or
 - e. Hold a certificate of training, community college certificate, associate degree, or bachelor degree in fields related to the education of children from birth to eight years (i.e., child development, early childhood education, Montessori certificate, elementary education, or special education).
 27. Teachers shall have reached the legal age of majority and have a High School Diploma or General Education Diploma. In addition, each teacher must meet one of the following requirements:
 - a. Have a written Department-approved plan to acquire at least three semester hours, or the equivalent thereof,
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or 15 clock hours of Department-approved in-service in the area of child development or early childhood education in a period not to exceed 12 months;

- b. Have a minimum of three credit hours, or the equivalent thereof, in early childhood education or child development;
- c. Have a minimum of one year of verifiable experience in preschool education, as indicated by a positive reference from a former employer/supervisor or primary education teacher, early childhood teacher, or child development teacher;
- d. Have a Child Development Associate Credential; or
- e. Hold a certificate of training, community college certificate, associate degree, or bachelor degree in fields related to the education of children from birth to eight years (i.e., child development, early childhood education, Montessori certificate, elementary education, or special education).

28. At least 50% of the preschool staff shall meet teacher qualifications.

IN-SERVICE REQUIREMENT

- 29. Each teacher shall obtain at least two clock hours of in-service annually for each full day per week in which s/he teaches. (For example, if a teacher teaches 4 half days per week, s/he would be required to obtain 4 clock hours each year.)
- 30. Each in-service hour for teaching staff must be specifically related to the care or teaching of children.
- 31. Each hour spent participating in any of the following types of activities counts toward yearly in-service requirements: staff orientation; staff sponsored in-service; workshops; college courses; noncredit course work; adult education courses; and Department-approved reading material.
- 32. Written documentation shall be available for each of the above types of training.

STAFFING

- 33. The director shall insure that staff-child ratio is met at all times. Compliance with staff-child ratio shall be determined on a preschool-wide basis.
- 34. The preschool shall count only those persons directly involved with the immediate care and teaching of children in the staff-child ratio.
- 35. All staff, including volunteers, who are counted in the staff-child ratio shall have reached the legal age of majority.
- 36. At no time shall the preschool exceed its licensed capacity.
- 37. Staff-child ratio:

Age Range of Children	Number of Staff	Number of Children
6 weeks to 18 months	1	4
18 months to 3 years	1	6
3 years	1	10
4, 5, and 6 years	1	12

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38. Staff shall have knowledge of where each child in attendance is at all times and be within hearing distance of all children.
 39. Children shall be accompanied by a staff person during outdoor play.

NUTRITION

40. If the preschool serves a snack, the snack must include at least one serving from one of the four basic food groups and meet nutritional standards set by the U.S. Department of Agriculture.

DISCIPLINE

41. The director shall insure that no child is spanked, slapped, pinched, punched, shaken, struck with any inanimate object, handled roughly, or bitten as a form of discipline; a brief, supervised separation from the group may be used.
42. Staff shall not discipline children: by denial of food; by forced napping; for toilet training accidents; or with subjection to derogatory remarks about themselves or their families, abusive or profane language, yelling or screaming, or threats of physical punishment.

MATERIALS AND EQUIPMENT

43. The licensee shall ensure that enough age-appropriate play materials are provided so that, at any one time, each child present can be individually involved.
44. The licensee shall ensure that play materials, equipment, and furnishings are easily cleanable, kept clean and in good repair, have no sharp edges, and have no rusty or loose parts.
45. The licensee shall ensure that furniture and equipment shall be arranged so as not to interfere with exits or cause a safety hazard for children.
46. The licensee shall ensure that stationary outdoor equipment such as a climbing apparatus, swings, or slides shall be located away from traffic areas in the play yard and securely anchored, unless designed to be portable.
47. The licensee shall ensure that swing seats shall be made of a pliable material, not hard plastic, wood, nor metal.
48. The licensee shall ensure that the area under climbing equipment, swings, slides, and other equipment from which children might fall, is of a resilient material such as sand, pea gravel, dirt, grass, or rubber matting.

CHILD HEALTH

49. Preschool staff shall give or apply medication, either prescription or nonprescription, only with prior written permission and written instructions from the parent. Medication shall be in the original container, stored according to the instructions, and clearly labeled for a specific child. The preschool shall maintain a record as to the time and amount of medication given or applied.
50. Preschool staff shall not smoke in the presence of children.
51. Alcohol or controlled substances as defined in Nebraska Revised Statutes, Sections 28-401 through 403 and 28-439 must not be consumed on the premises during the hours of operation of the preschool.
52. Drinking water must be available to children at all times.

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53. The preschool shall have a written policy which is made available to parents which requires the exclusion of any child who has any illness associated with a fever or any communicable condition such as diarrhea, ringworm, impetigo, head lice, pink eye, and scabies. If a parent refuses to exclude his/her child, s/he must provide a written statement from a physician indicating that the child's illness/condition is not highly communicable.

SAFETY AND EMERGENCY

54. The director shall develop a written fire evacuation plan (except in one room facilities) and a tornado safety plan to be posted in a conspicuous place in each licensed area. A tornado drill must be practiced during the second semester, with dates and times recorded.
55. At least one staff member who has received first aid training and CPR training must be on duty during all times children are present, as evidenced by a staffing chart. The CPR instructor must be certified by the American Heart Association, American Red Cross, the National Safety Council or Emergency Medical Planning America (Medic First Aid). Written verification of current training must be available.
56. The director shall ensure that emergency phone numbers for the following are posted near the phone: fire, police, hospital, and ambulance (or 911 for those services), and Poison Control.
57. The director shall ensure that a vehicle is immediately accessible for use by staff members for emergency purposes if the 911 emergency phone is not available.
58. The director shall ensure that a first aid kit containing the following is available for treatment of minor injuries but inaccessible to children: fever thermometer; soap; bandaids or tape; sterile gauze pads; and scissors.
59. The director shall ensure that electrical outlets in the licensed area which are within reach of the children are covered with safety caps.

FACILITY

60. Each preschool must have at least 35 square feet of indoor activity space for each child present. Bathrooms, kitchen, isolation room, office, passageways, storage space, or built-in cabinets must not be considered when computing activity space.
61. The director shall ensure that a working non-coin operated telephone is available on the premises.

TRANSPORTATION

62. The director shall ensure that individual safety restraints are available and used for each preschool-sponsored activity. All children under the age of four years OR forty pounds must be correctly secured in a federally approved child safety seat. All children from age four OR a weight of forty pounds must be secured in a safety belt. Restraints are not required for children transported by public transportation or school bus.
63. The director shall ensure that the number of children transported does not exceed the seating capacity indicated by the vehicle manufacturer.
64. The director shall ensure that all doors on the vehicle are locked when the vehicle is in motion, except for the driver's door.
65. The director shall ensure that parent or guardian signed permissions are obtained to allow the preschool to transport children. These permissions shall be kept on file.

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66. The director shall ensure that if more than six children are transported, at least two adults shall be present in the vehicle.

SANITATION

Facility: Each preschool director shall ensure that -

1. All floors, walls, and ceilings are clean, dry, and maintained in good repair.
2. Facility doors opening to the outside are self-closing (except for sliding doors) and all facility windows used for ventilation purposes shall be screened.
3. The temperature of rooms where children are present is maintained at least 65° Fahrenheit minimum temperature.
4. All rooms are adequately lighted with a minimum of 20 foot candle power (measure of illumination).
5. There is no carpeting in bathrooms. Carpeting is prohibited in new, remodeled, and renovated kitchens. Existing carpeting in kitchens may be accepted, provided it is in good repair and properly maintained at all times.
6. The facility has conveniently located toilet facilities at a ratio of one stool per 15 children two years of age and above. Toilet and toilet training chairs must be conveniently located, cleaned, and disinfected daily, and in good repair.
7. Each toilet is of suitable height or equipped with a steady platform and equipped to be easily and safely used by children.
8. Doors to the toilet room opening directly from food service areas are to be self-closing and tight-fitting.
9. A lavatory for every 15 children with hot and cold running water and soap is available. Each lavatory must be of suitable height or equipped with a steady platform or steps to be safely used by the children.
10. A sink is to be located within 60 feet of each toilet and/or diaper area.
11. The use of a common drinking container is prohibited. Drinking water must be provided by sanitary drinking fountains or individual cups. Common grooming items must not be used.
12. Only single service towels and washcloths are used. The use of a common towel and washcloth is prohibited. Soap must be available.
13. No adult or child resumes work or play after using the bathroom, changing diapers, or handling pets without first washing his or her hands.

Water Supply:

14. The director shall ensure the water temperature at each lavatory used by the children is at least 100° F, but no greater than 120° F.
15. If the water supply is not obtained from a municipal system, the Department of Health and Human Services shall make a referral for inspection by Department of Health and Human Services Regulation and Licensure Staff.

Sewage and Garbage:

16. The director shall ensure that all garbage and refuse is collected, stored, and disposed of in a manner which will not create a nuisance, provide a breeding place for flies, or provide food or harborage for rodents.

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17. The director shall ensure that all containers, both indoor and outdoor, for garbage and refuse are watertight, have tight-fitting covers, and are fly and rodent proof.
 18. If the sewage system is not connected to a municipal system, the Department of Health and Human Services shall make a referral for inspection by Department of Health and Human Services Regulation and Licensure staff.

Storage: The director shall ensure that -

19. Enclosed waterproof containers are provided for storing soiled, wet clothing.
20. Medications in the licensed area are stored separately under lock and key.
21. Separate locked storage is provided for insecticides, cleaning, polishing, and sanitizing agents, and any other poisons kept in the licensed area. These poisons must be kept separate from food items and inaccessible to children in the licensed area.
22. Weapons and ammunition are contained in locked storage.
23. Deep freezers with self-locking latches are locked or stored in a locked room.

Food Preparation: The director shall ensure that -

24. All food is obtained from an approved or commercial source and meat is from an inspected source.
25. No home-canned foods are served to the children.
26. Fluid milk and fluid milk products used or served are pasteurized and meet the Grade A quality standards as established by law. Dry milk and dry milk products must be made from pasteurized milk and be used for cooking purposes only.
27. All food is protected from contamination at all times, including while being stored, prepared, displayed, served, or transported. The temperature of potentially hazardous foods must be 45° Fahrenheit or below or 140° Fahrenheit or above at all times.
28. All food service equipment, utensils, preparation area, and nonfood contact surfaces are cleaned after each use. This includes proper washing, rinsing, sanitizing, air drying, and storage. All surfaces must be maintained in good repair.

GROUNDS

If an adjoining outdoor play area is used by the children, the director shall ensure that the preschool complies with the following regulations:

29. If there are unsafe areas such as drainage ditches, open storm sewers, wells, holes, railroad tracks, or heavy street traffic in or near the outdoor play area, a fence must be provided.
30. The fence must be at least three feet high, free from sharp, hazardous edges, in good repair, and of sufficient construction to keep animals and intruders out.
31. Pets, if present, must be physically controlled or restrained, and proof of vaccination shall be available for cats and dogs.
32. The grounds must be kept neat and clean, free from rodent harborages, and properly sloped or drained to prevent stagnant water collection.

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33. Accident hazards, such as flammable materials, deep pools, farm and lawn equipment, must be inaccessible. Potential accident hazards such as uncovered wells, broken glass, boards containing nails, and other debris must be eliminated.

DEPARTMENT OF HEALTH REGULATIONS

Compliance with the regulations in this section is determined only by Department of Health and Human Services Regulation and Licensure staff. In addition, the Department of Health and Human Services Regulation and Licensure may determine compliance with any regulation listed under the Sanitation section of the Preschool Regulations.

1. The preschool shall obtain its water supply from a source which is properly located, constructed, and operated to protect it from contamination and pollution. Water must meet current standards set by the Nebraska Department of Health and Human Services Regulation and Licensure as to bacteriological, chemical and physical tests for purity. Bacteriological and nitrate tests must be provided at least annually on private water supplies.
2. Sewage and all liquid wastes must be properly discharged into a municipal sewage system where such system is available. If it is not available, the sewage must be collected and treated in an independent sewage system which complies with the practices recommended by local ordinances. Where local ordinances do not exist, sewage treatment systems for individual premises shall comply with regulations of the Nebraska Department of Health and Human Services Regulation and Licensure.
3. No plumbing fixture or other device which provides a connection between a drinking water supply and a drainage, soil, waste or other sewer pipe so as to make possible the backflow of sewage or waste water into the potable water supply system, may be installed or remain installed. Water which has been used for cooling or for any other purpose must not be returned to the system.
4. All plumbing must conform to the local plumbing code. Where no plumbing code is in effect, plumbing must conform to the National Plumbing Code USA A 40.8-1955.

ALTERNATIVE COMPLIANCE WITH REGULATIONS

The Department may grant alternative compliance with regulations if the Department determines that the alternative offers equal protection to children and meets the intent of the regulation for which alternative compliance is sought.

Alternative compliances are not intended to waive or provide exemptions from regulations. Alternative compliances will not be granted for exceeding the license capacity, staffing, transportation, supervision, fire safety inspection disapprovals, and/or any regulation for which denial or suspension/revocation action(s) has been taken.

To request alternative compliance (DSS-0914), the applicant/licensee shall submit the following information to the Department in writing:

1. The regulation for which alternative compliance is sought (a separate request is necessary for each regulation that will be met in an alternate form);
2. An explanation of why the regulation cannot be met; and
3. Justification (how the facility will meet the intent of the regulation and continue to provide for the health and safety of the children).

Alternative compliances will be time limited, but may not exceed the current license period.

The Department may require the applicant/licensee to provide clear, supportive evidence and/or expert opinion.

NEBRASKA STATE FIRE MARSHAL GENERAL REQUIREMENTS FOR PRESCHOOL OCCUPANCIES

These general requirements for preschools are a condensed version of Nebraska State Fire Marshal Promulgated Rules and Regulations effective June 9, 1986, promulgated under the authority of R.R.S. 81-502.

When an existing building is remodeled to become a preschool, or a new building is built, plans shall be submitted to the State Fire Marshal's office for review and approval. There is a plan review fee assessed for this review based on the estimated cost of construction. The amount of the fee is normally between five and thirty-five dollars.

Upon completion of a building project or desire to occupy a facility for preschool, an inspection must be performed by a Deputy State Fire Marshal or State Fire Marshal Delegated Authority. At the time of final inspection, if a referral has been issued for purposes of licensure, an inspection fee will be assessed as follows:

0 - 8 children occupancy	\$30.00
9 - 12 children occupancy	\$40.00
13 - or more children occupancy	\$50.00

When the appropriate fee has been paid and any deficiencies corrected, an occupancy permit will be issued by the State Fire Marshal's office. The facility may not be occupied until such a permit is issued.

The following is an abbreviated listing of pertinent fire safety regulations for preschools in the State of Nebraska for facilities containing 13 or more children:

- 10-1.4.2 Preschools, nursery schools, head start centers, and other schools, whose purpose is primarily educational
- 11-1.4.2 even though the children may be of preschool age, will be reviewed and inspected under Chapter 10 or 11
- of Nebraska State Fire Marshal Promulgated Rules and Regulations Life Safety Code.

- 10-2.5.1 Exits shall be arranged that at least two separate exits will be available from every floor area. Exits shall
- be as remote from each other as possible and arranged so there shall be no dead end corridor exceeding
- 20 feet.

- 10-2.7 Every room used for preschool occupancy below ground or grade level shall have access to at least one
- exit which leads directly to the exterior without entering the floor above.

- 10-2.5.2 If a room or space is subject to occupancy of 50 or more person, two exits shall be provided and exit doors
- 5-2.1.4.1 must swing outward.

- 10-2.2 Exit doors leading directly to the outside from a room occupied by less than 100 persons may be equipped
- with knob-operated hardware which is always operable regardless of locking from the outside. Doors
- serving more than 100 shall have panic hardware provided.

- 10-2.11.3 Corridors, stairs, exits and portions of preschools having window less classrooms shall be provided with
- 10-2.9 emergency lighting.

- 10-2.11.5 Every room used for preschool occupancy normally occupied by children shall have a door leading directly
- to the outside and be sprinkler protected or have an operable window meeting the following conditions:

- is readily opened without tools;
- provides a clear opening of at least 22 inches in width, 24 inches in height and 5.7 square feet in area;
- bottom of window is approximately 44 inches above the floor; and
- screens, storm windows, etc., must be arranged so as to readily be opened from the inside.

10-3.3.1 Interior finish of walls, ceiling and floors of classrooms shall have a minimal fire rating of Class B.

10-3.4 Preschools shall have a complete commercial fire alarm system consisting of manual pull stations at each exit. All janitor closets shall be sprinkler protected. Any fire alarm or sprinkler system shall be approved by the Nebraska State Fire Marshal's office.

10-3.5.1 Every portion of preschools below grade level, regardless of construction materials, shall be provided with a complete fire sprinkler system.

10-3.2.1 Hazardous areas such as furnace rooms, garages, woodworking areas shall be separated from other parts of the preschool by one-hour fire rated construction unless complete sprinkler is provided.

NFPA 70 Electric wiring, utilities, and equipment shall be in conformance to the National Electrical Code and the
NFPA 54 National Fuel Gas Code.

31-3.1 Fire exit drills shall be conducted on a regular basis, for a total of 10 drills.

Preschools containing 12 or less children at any one given time will be inspected under a separate section, "Child Care II and III Regulations". A summary of these applicable regulations is as follows:

10-8.2.4.1 Each floor occupied by children shall have two means of egress.
10-9.2.4.1

10-8.2.4.3 When children are located on a floor below ground level, at least one direct exit shall be provided at grade.
10-9.2.11.2

10-8.2.11.1 Every closet door latch shall be such that children can operate the door from the inside.
10-9.2.11.2

10-8.2.11.2 Every bathroom door lock shall be designed to permit opening of the locked door from the outside in an emergency.
10-9.2.11.3

10-8.3.3.2 Interior finish in occupied spaces other than exits shall be Class A, B or C.
10-9.3.3.2

10-8.3.4.1 There shall be a residential type smoke detector on each floor that is used as a preschool.
10-9.3.4.1

10-8.5.2.1 Any heaters in spaces occupied by children shall be separated by partitions, screens or other means.
10-9.5.2.1

NFPA 70 Electrical wiring shall conform to the National Electrical Code.

10-8.5.1.2 Protective receptacle covers shall be installed in all areas occupied by children in homes for children under
10-9.5.1.2 five years of age.

POLICIES

PUBLIC ACCESS TO LICENSING FILES

Department staff shall release information regarding the name of the child care program/preschool, address, telephone number, type of license, license capacity, hours and days of care, ages of children served, and license effective dates upon verbal or written request.

The following forms, reports, correspondence and documents will be released upon either verbal or written request:

Application/Affidavit

Alternative Compliance Request

Registration Referral Form - Fire Safety Inspection/Fire Marshal

Registration Referral Form - Sanitation Inspection/Department of Health and Human Services Regulation and Licensure

Rules Compliance Checklist

Closure Form

Noncompliance Report/Compliance Review

Fire Safety Inspection Reports and Correspondence

Sanitation Inspection Reports and Correspondence

Letters initiating revocation, denial or suspension of a license

Licensing Agreements

Emergency Closing Orders

Order of License Reinstatement

Finding and Order resulting from an appeal hearing

Declaratory Ruling resulting from a failure to appeal

INFORMATION RELEASED TO OTHER GOVERNMENTAL ENTITIES

Copies of the following documents may be sent to other governmental entities:

Warning letters

Noncompliance Reports/Compliance Reviews

Extensions of Provisional Licenses

Issuances of Probationary Licenses

Letters initiating action to deny, suspend, or revoke a license

Emergency Closing Orders

If the above information includes any reference to specific names of children, their parents, Child Protective Services reports or records or Law Enforcement investigative reports, these references will be deleted before release.

INFORMATION NOT RELEASED

The following information documents or forms will **NOT** be released:

Names, address and phone numbers of complainants

Names of enrolled children and their parents/guardians

Child Protective Services reports or records, Adult Protective Services reports or records, Nebraska Child Abuse and Neglect Central Registry and Nebraska Adult Protective Services Central Registry information or Law Enforcement investigative reports

Felony/Misdemeanor Statements

Reference Release Statements

Reference Letters

Enrollment/Attendance Form

Internal Department correspondence

Investigative reports and notes

Documentation regarding unlicensed care investigations

Medical Records/Health Information Reports

Department staff shall not release information until the licensee has received the information or a reasonable effort has been made to provide the licensee with the information.

Requested information will be available five working days after the request is received.

If a determination is made to deny a request for information and the requesting party objects or further insists on production, the licensing staff shall consult with the Legal Division for assistance in preparation of a written response as required by Nebraska Revised Statutes, Section 84-712.04.

CHILD CARE PROVIDER ACCESS TO LICENSING FILES

Child care/preschool providers shall receive a statement describing noncompliance(s) and/or complaint(s) specific to child care/preschool licensing regulations during the licensing visit.

Child care/preschool providers must have the opportunity to provide written comment about all noncompliances and complaints in the following ways:

1. The child care provider may indicate comments and/or clarification on the agency documentation at the time of the visit.
2. The child care provider may submit a written letter or memo to the appropriate Child Care Resource Specialist or Supervisor. Department staff shall attach the letter or memo to the noncompliance documentation and forward to the Central Office file.
3. A written confirmation will be sent to the provider indicating that the information has been placed in the Central Office file.

Providers shall have the right to review their child care program licensing file that is retained in the Department Central Office, Lincoln, Nebraska. Requested information will be available for review in Lincoln Central Office, 301 Centennial Mall South, Lincoln, Nebraska, from 9:00 a.m. to 4:00 p.m. on weekdays except for state holidays, ten business days after the request is received.

RESTRICTED INFORMATION

All information contained in this file may be reviewed with the exception of the following:

1. Any information that identifies person(s) who made complaints or alleged noncompliance with regulations;

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2. Child Protective Services reports and records, Nebraska Child Abuse and Neglect Central Registry information, Adult Protective Services reports and records, Nebraska Adult Protective Services Central Registry information and law enforcement investigative reports;
 3. Reference letters;
 4. Internal Department correspondence;
 5. Investigative reports and notes; and
 6. Documentation regarding unlicensed care investigations.

DEATH OF A CHILD

Upon notification of a death of a child attending any child care/preschool facility, Child Protective Services shall be notified, and a Child Care Resource Specialist shall determine if the child care/preschool facility is licensed. If the child care preschool program is licensed, a clearance with the Nebraska Child Abuse and Neglect Central Registry will be completed for the following individuals: all caregivers, household members, other involved parties, and the deceased child. A review of relevant licensing files, if applicable, will also be completed by Resource Development and Support Staff.

If the Nebraska Child Abuse and Neglect Central Registry and/or file indicate possible concerns, Resource Development and Support staff shall inform the appropriate Child Protective Services supervisor and local law enforcement agency by telephone followed by written notice. Documentation of contact will be placed in the licensing file if the incident occurred in a licensed facility. The documentation will be filed separately if the incident occurred in an unlicensed facility.

One of the following sources may be used when obtaining verification of such incidents:

1. Law enforcement reports and County Attorney records, including Coroner's report
2. Death Certificate via Department of Health, Vital Statistics

Should documentation reveal that death is attributed to S.I.D.S. (Sudden Infant Death Syndrome), that information will be filed in the Central Office licensing file. A telephone call offering support and resource information may be made by Resource Development and Support staff.

Should documentation reveal that the death was of a nature other than S.I.D.S. and was not the result of any law violation, that information will be filed in the Central Office licensing file. A telephone call offering support and resource information may be made by Resource Development and Support staff.

Should documentation reveal that the death was crime-related, the information will be reviewed to determine noncompliance with licensing regulations and a negative action will be initiated.

NOTIFICATION OF PARENTS WHEN AN EMERGENCY CLOSING ORDER IS ISSUED

Whenever the Director of the Department of Health and Human Services finds that an emergency exists requiring immediate action to protect the physical well-being and safety of children in a child care/preschool program, the director may issue an "Emergency Closing Order" declaring the existence of an emergency and requiring that action be taken as the director deems necessary. Any licensed child care provider to whom the Emergency Closing Order is directed shall comply immediately.

Department staff shall inform the parents of enrolled children of the issuance of the Emergency Closing Order by telephone and in writing.

Parents and appropriate Department staff shall be informed of the following:

1. An Emergency Closing Order was issued by the Director of the Department of Health and Human Services to protect the physical well-being and safety of the children in care at the facility;
2. The date and time the order is effective;
3. A general description of the circumstances which endangered the health and safety of the children;
4. An explanation of how parents may obtain information regarding the facility's compliance with licensing standards.
5. The names and telephone numbers of resources that could assist parents in locating another provider, if necessary; and
6. The name and work number of the specialist's supervisor.

Appropriate Department staff shall be notified when a decision has been made to issue an Emergency Closing Order and when the order has been delivered.

LIFTING OF AN EMERGENCY CLOSING ORDER:

If an Emergency Closing Order is lifted, written notice will be immediately provided.

The Department shall inform the parents of enrolled children in writing when an Emergency Closing is lifted.

**LEGAL BASIS
NEBRASKA STATUTES (REVISED)
ARTICLE 19
CHILD CARE LICENSING**

- 71-1908. Legislative findings.
- 71-1909. Sections, purpose.
- 71-1910. Terms, defined.
- 71-1911. Child care program; license; fee; issuance; renewal, denial.
- 71-1911.01. Display of License.
- 71-1912. Department; establish standards; investigation; inspection.
- 71-1913. Fire and health inspections.
- 71-1913.01. Immunization requirements; record; report.
- 71-1913.02. Immunization reports; audit, deficiencies; departments; duties.
- 71-1913.03. Immunization; department; adopt rules and regulations.
- 71-1914. Department; serve as coordinating agency; local rules and regulations; report of violation.
- 71-1915. Violations; charges; content; notice; hearing; penalty; emergency powers; injunction.
- 71-1916. Department; administrative procedures.
- 71-1917. Annual report; contents.
- 71-1918. Existing rules and regulations; effective; when.

71-1908. Legislative Findings. The Legislature finds that there is a present and growing need for quality child care programs and facilities. There is a need to establish and maintain licensure of providers of all such programs to ensure that providers are competent and are using safe and adequate facilities. The Legislature further finds and declares that the development and supervision of programs are a matter of statewide concern and should be dealt with uniformly on the state and local levels. There is a need for cooperation among the various state and local agencies which impose standards on providers of programs and there should be one agency which coordinates the enforcement of such standards and informs the Legislature about cooperation among the various agencies.

71-1909. Sections, Purpose.

- (1) The purposes of sections 71-1908 to 71-1917 are to provide:
 - (a) Statewide licensing of providers of child care programs; and

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- (b) The Department of Social Services with authority to coordinate the imposition of standards on providers of programs.
 - (2) It is the intent of the Legislature that the licensing and regulation of programs under such sections exist for the protection of children and to assist parents in making informed decisions concerning enrollment and care of children in such programs.

71-1910. Terms, Defined. For purposes of sections 71-1908 to 71-1917, unless the context otherwise requires:

- (1) Department shall mean the Department of Social Services;
- (2) Director shall mean the Director of Social Services; and
- (3) Program shall mean the provision of services in lieu of parental supervision for children under thirteen years of age for compensation, either directly or indirectly, on the average of less than twelve hours per day, but more than two hours per week, and shall include any employer-sponsored child care, family child care home, child care center, school-age child care program, school-age services pursuant to section 79-444, or preschool or nursery school. Program shall not include casual care at irregular intervals, a recreation camp, classes or services provided by a religious organization other than child care or a preschool or nursery school, a preschool program conducted in a school approved pursuant to section 79-328, or foster care as defined in section 71-1901. The State Board of Education may adopt and promulgate rules and regulations which shall apply to any program and any school-age care program operated or contracted by a public school district.

71-1911. Child Care Program; Licenses when required; Fee; Issuance; Renewal, Denial.

- (1) A person may furnish a program for three or less children without having a license issued by the Department, except that if such person has had a license issued pursuant to subsection (2) of this section and such license has been suspended or revoked pursuant to section 71-1915, such person shall not furnish a program for three or less children until the person is licensed pursuant to this section.
- (2) No person shall furnish or offer to furnish a program for four or more children under his or her direct supervision, care and control at any one time from families other than that of the provider without having in full force and effect a written license issued by the Department upon such terms as may be prescribed by the rules and regulations adopted and promulgated by the Department. The license may be a provisional license, a probationary license, or an operating license. A city, village, or county which has rules, regulations, or ordinances in effect on July 10, 1984, which apply to programs furnished for two or three children from different families may continue to license providers of such programs. If the license of a person is suspended or revoked pursuant to section 71-1915, such person shall not be licensed by any city, village, or county rules, regulations, or ordinances until the person is licensed pursuant to this section. Any provider not covered by sections 71-1908 to 71-1917 may voluntarily subject himself, herself, or itself to coverage.
- (3) A provisional license shall be issued to all applicants for the first year of operation. At the end of one year of operation, the Department shall either issue an operating license or renew or refuse to renew the provisional license. The provisional license may be renewed once if the Department determines that:
 - (a) A licensee is unable to comply with all license requirements and standards, is making a good faith effort to comply, and is capable of compliance within the next six months;
 - (b) The effect of the current inability to comply with a rule or regulation does not present an unreasonable risk to the health, safety, or well-being of children or staff; and

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- (c) The licensee has a written plan of correction that has been approved by the Department which is to be completed within the renewal period.
 - (4) The Department may issue a probationary license to a licensee holding an operating license for up to six months. The probationary license may be issued if the Department determines that:
 - (a) A licensee is unable to comply with all licensure requirements and standards or has had a history of non compliance.
 - (b) The effect of non compliance with any rule or regulation does not present an unreasonable risk to the health, safety, or well-being of children or staff and
 - (c) The licensee has a written plan of correction that has been approved by the Department.
 - (5) Operating license issued under sections 71-1908 to 71-1917 shall expire two years from the date of issuance and shall be subject to renewal under such terms as may be prescribed by the rules and regulations of the Department in effect at the time of the renewal.
 - (6) There shall be a twenty-five dollar fee charged for the issuance or renewal of each license for providers with a licensing capacity of less than thirty children and a fifty dollar fee charged for the issuance or renewal of each license for providers with a licensing capacity of thirty or more children. The license fee shall be paid to the Department which shall retain the fee, except that when a city, village, or county has adopted any rule, regulation, or ordinance which establishes standards for licensed providers pursuant to subsection (2) of section 71-1914 and conducts all necessary inspections of any licensed provider pursuant to such subsection, the Department shall transmit the license fee paid by such provider to the city, village, or county conducting the inspections.
 - (7) A license may be denied for cause, after notice and hearing, in accordance with such rules and regulations as may be adopted and promulgated by the Department. A person who has had a license suspended or revoked pursuant to section 71-1915 shall not be eligible to reapply for a license for a period of two years.
 - (8) A license shall be denied or revoked if an applicant or licensee has been found guilty of a crime involving the neglect, physical abuse, or sexual abuse of a child or an adult.

71-1911.01. Display of License. The provisional, probationary, or operating license issued pursuant to section 71-1911 shall be displayed by the licensee in a prominent place so that it is clearly visible to parents and others.

71-1912. Department; Establish Standards; Investigation; Inspection.

- (1) The Department shall adopt and promulgate rules and regulations establishing standards for the physical well-being, safety, and protection of children pursuant to the licensing of providers. Such standards shall insure that the provider of a program is providing proper care for and treatment of the children served and that such care and treatment is consistent with the children's physical well-being, safety, and protection. Such standards shall not require the use of any specific instructional materials or affect the contents of any course of instruction which may be offered by a program. Before issuance or renewal of a license, the Department shall investigate or cause an investigation to be made, when it deems necessary, to determine if the applicant or person in charge of the program meets or is capable of meeting the physical well-being, safety, and protection standards and the other rules and regulations of the Department. The Department may investigate the character of prospective or existing licensees, any member of the licensee's household, and the staff and employees of programs by making a national criminal history record information check. The Department may at any time inspect or cause an inspection to be made of any place where a program is operating to determine if such program is being properly conducted.

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- (2) The rules and regulations adopted and promulgated pursuant to subsection (1) of this section shall contain provisions which encourage the involvement of parents in child care for their children and insure the availability, accessibility, and high quality of services for children in family child care homes. The rules and regulations shall be adopted and promulgated pursuant to the Administrative Procedure Act, except that the Department shall hold a public hearing in each geographic area of the state prior to the adoption, amendment, or repeal of any rule or regulation.

71-1913. Fire and Health Inspections. The Department may request the State Fire Marshal to inspect any program for fire safety pursuant to section 81-502 and may request the Department of Health to inspect any program to determine if it meets sanitation and physical well-being standards of the Department of Social Services for the care and protection of the children pursuant to section 71-901. The authority to make such inspections may be delegated to qualified local fire prevention personnel pursuant to section 81-502 or to qualified local environmental health personnel by the Department of Health. The State Fire Marshal and the Director of Health shall immediately notify the Department of Social Services whenever they delegate their authority for such inspections.

71-1913.01. Immunization Requirements; Record; Report.

- (1) Each program shall require the parents or guardian of each child enrolled in such program to present within thirty days after enrollment and periodically thereafter:
- (a) Proof that the child is protected by age-appropriate immunization against measles, mumps, rubella, poliomyelitis, diphtheria, pertussis, tetanus, and hemophilus influenza type B and such other diseases as the Department of Health may from time to time specify based on then current medical and scientific knowledge, (b) certification by a physician, certified nurse practitioner, or physician assistant that immunization is not appropriate for a stated medical reason, or (c) a written statement that the parent or guardian does not wish to have such child so immunized and the reasons therefor. The program shall exclude a child from attendance until such proof, certification, or written statement is provided. At the time the parent or guardian is notified that such information is required, he or she shall be notified in writing of his or her right to submit a certification or written statement pursuant to subdivision (b) or (c) of this subsection.
- (2) Each program shall keep a written record of immunization, the certification, or the written statement of the parent or guardian. Such record certification, or statement shall be kept by the program as part of the child's file, shall be available to the Department of Social Services, and shall be filed with the Department of Health for review and inspection. Each program shall report to the Department of Health by November of each year the status of immunization for children enrolled as of September 30 of that year.

71-1913.02. Immunization Reports; Audit, Deficiencies; Departments; Duties.

- (1) The Department of Health shall perform annually a random audit of the reports submitted under section 71-1913.01 to check for compliance with such section on an annual basis and such other audits and inspections as are necessary to prevent the introduction or spread of disease. Audit results shall be reported to the Department of Social Services.
- (2) The Department of Health discovers noncompliance with section 71-1913.01, the Department of Health shall allow a noncomplying program thirty days to correct deficiencies. If deficiencies are not corrected, the Department of Health shall notify the Department of Social Services in writing within five working days. The Department of Social Services shall notify the Department of Health of any action taken as a result of such report.
- (3) The Department of Health shall develop and provide educational and other materials to the programs and the public as may be necessary to implement section 71-1913.01.

71-1913.03. Immunization; Department; Adopt Rules and Regulations. The Department of Health shall adopt and promulgate rules and regulations relating to the required levels of protection, using as a guide the recommendations of the American Academy of Pediatrics and the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, Public Health Service, and the methods, manner and frequency of reporting of each child's immunization status. The Department of Health shall furnish each program with copies of such rules and regulations and any other material which will assist in carrying out section 71-1913.01.

71-1914. Department; Serve as Coordinating Agency; Local Rules and Regulations; Report of Violation.

- (1) The Department shall be the state's coordinating agency for regulating programs in this state in order to:
 - (a) provide efficient services pursuant to sections 71-1908 to 71-1917,
 - (b) avoid duplication of services, and
 - (c) prevent an unnecessary number of inspections of any program. The Department may request cooperation and assistance from local and state agencies and such agencies shall promptly respond. The extent of any agency's cooperation may be included in the report to the Legislature pursuant to section 71-1917.
- (2) A city, village, or county may adopt rules, regulations, or ordinances establishing physical well-being and safety standards for providers of programs whether or not such providers are subject to licensure under section 71-1911. If a city, village, or county adopts any rules, regulations, or ordinances establishing physical well-being and safety standards for providers subject to licensure under section 71-1911,
 - (a) such rules, regulations, or ordinances shall be identical to the Department's rules and regulations for licensed providers pursuant to sections 71-1908 to 71-1917, except that a city, village, or county which has rules, regulations, or ordinances in effect on July 10, 1984, which apply to programs furnished for two or three children from different families may continue to license providers of such programs, and
 - (b) the city, village, or county and the department shall coordinate the inspection and supervision of licensed providers to avoid duplication of inspections. A city, village, or county shall report any violation of its rules, regulations, or ordinances regulating providers subject to licensure to the director who may cause a written charge to be brought pursuant to section 71-1915. The city, village, or county may administer and enforce its rules, regulations, and ordinances establishing physical well-being and safety standards for providers of programs, except that the exclusive remedy for the violation of any rules, regulations, and ordinances regulating providers subject to licensure pursuant to section 71-1911 shall be by the director pursuant to section 71-1915.

71-1915. Violation; Charges; Content; Notice; Hearing; Penalty; Emergency Powers; Injunction.

- (1) Whenever the director has reason to believe that a violation of any provision of sections 71-1908 to 71-1914 or of any rule, regulation, or order of the Department has occurred, he or she may cause a written charge to be served upon each alleged violator. The charge shall specify the provision of sections 71-1908 to 71-1914 or the rule, regulation, or order alleged to be violated and the facts alleged to constitute a violation of such section, rule, regulation, or order. The provisional or probationary license of a person may be suspended or revoked if periodic review or inspection by the Department indicates that insufficient progress has been made toward compliance. The director shall provide for notice and, if requested by the alleged violator, a full and fair hearing at which each alleged violator shall answer the charges. The notice shall be delivered to each alleged violator by personal service, by certified or registered mail to his or her last-known address or by publication. Notice by publication shall only be made if personal service or service by mail cannot be

effectuated. The alleged violator may request a hearing within ten days after delivery of the notice. Following the hearing, if held, or within fifteen days after delivery of the notice if no hearing is held, the director shall determine whether the charges are true or not, and if true, the director may:

- (a) issue a declaratory order finding the charges to be true,
- (b) revoke or suspend the provisional, probationary or operating license,
- (c) issue a probationary license if the determinations of subsection (4) of section 71-1911 are applicable, or
- (d) impose a civil penalty of five dollars for each child in the program for each day in violation after the Department issues its order finding a violation.

If the Department has initiated a license suspension or revocation, (i) such action may continue to finality even if the license of the licensee has been surrendered and (ii) household members of the licensee or current staff members of such licensee shall not become the licensee of the program while such action is pending.

- (2) Any civil penalty assessed and unpaid under subsection (1) of this section shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of the State of Nebraska in the district court of the county in which the violator resides or owns property.
- (3) Whenever the director finds that an emergency exists requiring immediate action to protect the physical well-being and safety of a child in a program, the director may, without notice or hearing, issue an order declaring the existence of such an emergency and requiring that such action be taken as the director deems necessary to meet the emergency. Notwithstanding the provisions of subsection (1) of this section, such order shall be effective immediately. Any person to whom the order is directed shall comply immediately, except that upon application to the director, the person shall be afforded a hearing as soon as possible and not later than ten days after his or her application for the hearing. On the basis of such hearing the director shall continue to enforce his or her order or revoke or modify it.
- (4) In addition to the powers provided to the director in this section, he or she may petition the appropriate district court for an injunction whenever he or she believes that any person is violating any provision of sections 71-1908 to 71-1917 or any rule, regulation, or order adopted and promulgated pursuant to such sections. It shall be the duty of each county attorney or the Attorney General to whom the director reports a violation to cause appropriate proceedings to be instituted without delay to ensure compliance with such sections, rules, regulations, and orders.

71-1916. Department; Administrative Procedures. The department shall adopt and promulgate such rules and regulations, consistent with sections 71-1908 to 1915, as it shall deem necessary for (1) the proper care and protection of children by providers under such sections, (2) the issuance, suspension, and revocation of licenses for program providers, and (3) the proper administration of such sections. Hearings conducted by the Department pursuant to section 71-1915 and any other contested cases of the Department shall be in accordance with the Administrative Procedures Act. An appeal may be taken from the decision of the Department. The appeal shall be in accordance with the Act.

71-1917. Annual Report; Contents. The annual report required under subdivision (11) of section 43-2615 shall include:

- (1) The number of license applications received under sections 71-1908 to 71-1917;
- (2) The number of licenses issued under such sections;

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- (3) The number of license applications denied under such sections;
 - (4) The number of complaints investigated under such sections;
 - (5) The number of licenses revoked under such sections;
 - (6) The number and dollar amount of civil penalties levied pursuant to section 71-1915; and
 - (7) Information which may assist the Legislature in determining the extent of cooperation provided to the Department by other state and local agencies pursuant to section 71-1914.



The Nebraska Department of Social Services is committed
to affirmative action/equal employment opportunity
and does not discriminate in delivering benefits or services

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